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April 13, 2005

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VIA FAX - (601) 352-7757
and REGULAR MAIL
Ms. Betty Mallett
McGlinchey Stafford PLLC
City Centre, Suite 1100
200 South Lamar Street
Jackson, MS 39201

COPY

Re: *Olivia Y. et al. v. Barbour et al.*

Dear Ms. Mallett:

Further review of Defendants' Responses to Plaintiffs' First Request for Production of Documents and related documents has revealed additional deficiencies in Defendants' production.

First, it is apparent that the Defendant Governor has yet to produce a single document responsive to Plaintiffs' First Request. Does the Governor's Office not keep any files regarding DHS/DFCS and its ability to care for and protect foster children? Have there been no responsive communications between DHS/DFCS and the Governor's Office? For example, does the Governor's Office not have any documents responsive to Document Requests Nos. 21, 22, 23, and 35?

Document Request No. 7: The following MACWIS reports listed at DHS 020101-109 have not been produced: (1) quarterly and annual "Medical, Dental & Psychological Reports" (MWBRD14Q and 15Y); (2) quarterly "Educational Reports" (MWBRD15Q); and (3) ad hoc reports "Count of placements in each facility type by State" (MWZ0500B).

Document Request No. 8: At least the following requested assessments, audits, evaluations or reviews are missing from Defendants' production: (1) the December 2003 Statewide Self Assessment; (2) the May 2004 federal Child and Family Services Review (CFSR) report; (3) Quality Improvement Unit case record review reports as to "Placement Cases," including "Case," "County," "Regional," and "State" reports, referred to at DHS 009879; (4) Program Integrity Unit reviews; and (5) State Level Child Fatality Review Board/Team reviews of child deaths of children in DHS custody and annual reports referred to at DHS 017301. Also missing are any of the requested responses or corrective action plans, which would include, for example, the corrective action plans developed by the Regional Quality Improvement Coordinators referred to at DHS 017322.

Document Request No. 9: Missing from Defendants' production are any monthly "Foster Care Review Summary Report Issues in Foster Children's Cases" for the current year. Also missing are any of the requested responses from the Regional Directors to the DFCS Division



Director after such Foster Care Review reports are forwarded to them, as described in the attached page from the State's Self Assessment (P 001957).

Document Request No. 23: Missing from Defendants' production are any documents regarding the temporary detailing of staff at DFCS (referred to at DHS 017259), including but not limited to the correspondence related to the detailing of Training Unit staff, as testified to by Kathy Triplett. *See Triplett deposition, 45:24-51:10.*

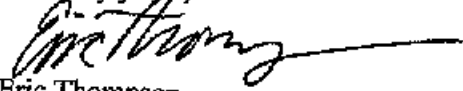
Document Request No. 29: Missing from Defendants' production are the "Therapeutic Foster Care Placement Log & Pending Placements" for the years prior to January/February 2005.

Document Request No. 30: The Revised Strategic Plan for FY 2004, listed as Attachment F to the 2003 Child and Families Service Plan Annual Progress and Service Report at DHS 017235, was not produced. Also missing from Defendants' production is the 2004 "Child and Families Service Plan Annual Progress and Service Report."

Document Request 35: Missing from your production are (1) "Count of Maltreated Children while in Custody in a Placement" and "Summary of Maltreated Children while in Custody in a Placement" for the periods before and after the reports for the third and fourth quarter of 2004 (DHS 019057-60); (2) State Level Child Fatality Review Board/Team reviews of child deaths of children in DHS custody and annual reports, as referred to at DHS 017301; (3) reports of child maltreatment in placement; (4) investigations regarding child maltreatment in placement; (5) any other special or critical incident reviews regarding child maltreatment in placement; and (6) any email discussing such incidents.

Please let me hear from you in response by April 20, 2005. Plaintiffs reserve the right to bring additional deficiencies to your attention after further review of the documents produced.

Sincerely yours,


Eric Thompson
Plaintiffs' counsel

Enclosures

cc: Stephen Leech, Esq.
Wayne Drinkwater & Melody McAnally, Bradley Arant
John Lang, Loeb & Loeb

of achievement of the permanent plan; (2) if there is a continuing need for placement (custody) of the child; (3) if the child has been in custody for 15 of the past 22 months and if the child's case has been referred for termination of parental rights or if compelling reasons for not referring the case for termination of parental rights has been properly documented; (4) if the current placement is the least restrictive (most family like); (5) if the child's current placement is the most appropriate; (6) if there is any indication that the child's current placement is not conducive to their safety; (7) if there has been compliance with the child's individual service plan (ISP); (8) if the child's ISP indicates they are receiving appropriate services to meet their educational needs as well as their physical health and mental health needs; (9) if there has been compliance with the parental case plan (Adult ISP); and (10) if progress has been made toward alleviating the causes for the child entering the state's custody.

In addition to the information collected on the DFCS-4253 (Periodic Administrative Determination on Foster Children), the Foster Care Reviewer also addresses the following information during the course of the review of the child's case record: (1) if the agency staff persons have had face to face contact with the child every thirty (30) days; (2) if there are any indicators that the child may be at risk of abuse or neglect; (3) if participant notification policy regarding the County Conference has been followed and if the assigned Social Worker or Area Social Work Supervisor were in attendance at the County Conference; (4) if the child's Individual Service Plan (ISP) was developed and approved within the mandated time frames and the ISP is complete; (5) if there is an Adult ISP and a concurrent plan for children's cases in which the permanent plan is reunification; (6) documentation of Independent Living services being offered to children who are eligible; (7) if action is being taken by the county staff to refer a child's case for termination of parental rights once a plan of adoption has been made; (8) if county staff have filed a review in the case record of children who have been in agency custody for 15 months; (9) if the last Foster Care Review Report was forwarded to the court of jurisdiction for a judicial determination AND IF the court returned an order to the county indicating a judicial determination was made; (10) if the agency has followed through on any orders of the court regarding the child's case; (11) if the documentation regarding the child's placement in the automated system (MACWIS) is current and accurate; (12) if the child's case needs to be referred to the Director's Advisory Committee On Permanency Planning (DACOPP) because the child's plan is unknown, inappropriate, or the county staff wants/needs advice; (13) if there is documentation in the case record of a six month review order, and (14) if there is documentation in the case record of an annual permanency order that meets federal requirements.

A report of case planning non-compliance issues observed is compiled by the Foster Care Review Program Administrator and submitted to the DFCS Division Director. The report is then forwarded to the Regional Directors for their information, action, and response back to the DFCS Division Director.

The Foster Care Review Program Administrator Senior compiles this report monthly and forwards it to the Family and Children's Services Deputy Director of Programs by the